

(f) REIMBURSEMENTS.—

(1) REASONABLE INITIAL COSTS.—

(A) IN GENERAL.—The Employees' Life Insurance Fund is available, without fiscal year limitation, for reasonable expenses incurred by the Office of Personnel Management in administering this chapter before the start of the 7-year period described in section 9003(d)(2)(B), including reasonable implementation costs.

(B) REIMBURSEMENT REQUIREMENT.—Such Fund shall be reimbursed, before the end of the first year of that 7-year period, for all amounts obligated or expended under subparagraph (A) (including lost investment income). Such reimbursement shall be made by carriers, on a pro rata basis, in accordance with appropriate provisions which shall be included in master contracts under this chapter.

(2) SUBSEQUENT COSTS.—

(A) IN GENERAL.—There is hereby established in the Employees' Life Insurance Fund a Long-Term Care Administrative Account, which shall be available to the Office, without fiscal year limitation, to defray reasonable expenses incurred by the Office in administering this chapter after the start of the 7-year period described in section 9003(d)(2)(B).

(B) REIMBURSEMENT REQUIREMENT.—Each master contract under this chapter shall include appropriate provisions under which the carrier involved shall, during each year, make such periodic contributions to the Long-Term Care Administrative Account as necessary to ensure that the reasonable anticipated expenses of the Office in administering this chapter during such year (adjusted to reconcile for any earlier overestimates or underestimates under this subparagraph) are defrayed.

(Added Pub. L. 106-265, title I, §1002(a), Sept. 19, 2000, 114 Stat. 766.)

§ 9005. Preemption

(a) CONTRACTUAL PROVISIONS.—The terms of any contract under this chapter which relate to the nature, provision, or extent of coverage or benefits (including payments with respect to benefits) shall supersede and preempt any State or local law, or any regulation issued thereunder, which relates to long-term care insurance or contracts.

(b) PREMIUMS.—

(1) IN GENERAL.—No tax, fee, or other monetary payment may be imposed or collected, directly or indirectly, by any State, the District of Columbia, or the Commonwealth of Puerto Rico, or by any political subdivision or other governmental authority thereof, on, or with respect to, any premium paid for an insurance policy under this chapter.

(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed to exempt any company or other entity issuing a policy of insurance under this chapter from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by such entity from busi-

ness conducted under this chapter, if that tax, fee, or payment is applicable to a broad range of business activity.

(Added Pub. L. 106-265, title I, §1002(a), Sept. 19, 2000, 114 Stat. 768; amended Pub. L. 107-104, §2, Dec. 27, 2001, 115 Stat. 1001.)

AMENDMENTS

2001—Pub. L. 107-104 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-104 effective as if included in the enactment of section 1002 of Pub. L. 106-265, see section 3 of Pub. L. 107-104, set out as a note under section 9001 of this title.

§ 9006. Studies, reports, and audits

(a) PROVISIONS RELATING TO CARRIERS.—Each master contract under this chapter shall contain provisions requiring the carrier—

(1) to furnish such reasonable reports as the Office of Personnel Management determines to be necessary to enable it to carry out its functions under this chapter; and

(2) to permit the Office and representatives of the Government Accountability Office to examine such records of the carrier as may be necessary to carry out the purposes of this chapter.

(b) PROVISIONS RELATING TO FEDERAL AGENCIES.—Each Federal agency shall keep such records, make such certifications, and furnish the Office, the carrier, or both, with such information and reports as the Office may require.

(c) REPORTS BY THE GOVERNMENT ACCOUNTABILITY OFFICE.—The Government Accountability Office shall prepare and submit to the President, the Office of Personnel Management, and each House of Congress, before the end of the third and fifth years during which the program under this chapter is in effect, a written report evaluating such program. Each such report shall include an analysis of the competitiveness of the program, as compared to both group and individual coverage generally available to individuals in the private insurance market. The Office shall cooperate with the Government Accountability Office to provide periodic evaluations of the program.

(Added Pub. L. 106-265, title I, §1002(a), Sept. 19, 2000, 114 Stat. 768; amended Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

AMENDMENTS

2004—Subsec. (a)(2). Pub. L. 108-271 substituted "Government Accountability Office" for "General Accounting Office".

Subsec. (c). Pub. L. 108-271 substituted "Government Accountability Office" for "General Accounting Office" in heading and two places in text.

§ 9007. Jurisdiction of courts

The district courts of the United States have original jurisdiction of a civil action or claim described in paragraph (1) or (2) of section 9003(c), after such administrative remedies as required under such paragraph (1) or (2) (as applicable) have been exhausted, but only to the extent judicial review is not precluded by any dis-

pute resolution or other remedy under this chapter.

(Added Pub. L. 106-265, title I, §1002(a), Sept. 19, 2000, 114 Stat. 768.)

§ 9008. Administrative functions

(a) IN GENERAL.—The Office of Personnel Management shall prescribe regulations necessary to carry out this chapter.

(b) ENROLLMENT PERIODS.—The Office shall provide for periodic coordinated enrollment, promotion, and education efforts in consultation with the carriers.

(c) CONSULTATION.—Any regulations necessary to effect the application and operation of this chapter with respect to an eligible individual described in paragraph (3) or (4) of section 9001, or a qualified relative thereof, shall be prescribed by the Office in consultation with the appropriate Secretary.

(d) INFORMED DECISIONMAKING.—The Office shall ensure that each eligible individual applying for long-term care insurance under this chapter is furnished the information necessary to enable that individual to evaluate the advantages and disadvantages of obtaining long-term care insurance under this chapter, including the following:

(1) The principal long-term care benefits and coverage available under this chapter, and how those benefits and coverage compare to the range of long-term care benefits and coverage otherwise generally available.

(2) Representative examples of the cost of long-term care, and the sufficiency of the benefits available under this chapter relative to those costs. The information under this paragraph shall also include—

(A) the projected effect of inflation on the value of those benefits; and

(B) a comparison of the inflation-adjusted value of those benefits to the projected future costs of long-term care.

(3) Any rights individuals under this chapter may have to cancel coverage, and to receive a total or partial refund of premiums. The information under this paragraph shall also include—

(A) the projected number or percentage of individuals likely to fail to maintain their coverage (determined based on lapse rates experienced under similar group long-term care insurance programs and, when available, this chapter); and

(B)(i) a summary description of how and when premiums for long-term care insurance under this chapter may be raised;

(ii) the premium history during the last 10 years for each qualified carrier offering long-term care insurance under this chapter; and

(iii) if cost increases are anticipated, the projected premiums for a typical insured individual at various ages.

(4) The advantages and disadvantages of long-term care insurance generally, relative to other means of accumulating or otherwise acquiring the assets that may be needed to meet the costs of long-term care, such as through tax-qualified retirement programs or other investment vehicles.

(Added Pub. L. 106-265, title I, §1002(a), Sept. 19, 2000, 114 Stat. 768.)

§ 9009. Cost accounting standards

The cost accounting standards issued pursuant to section 26(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)) shall not apply with respect to a long-term care insurance contract under this chapter.

(Added Pub. L. 106-265, title I, §1002(a), Sept. 19, 2000, 114 Stat. 769.)

Subpart H—Access to Criminal History Record Information

CHAPTER 91—ACCESS TO CRIMINAL HISTORY RECORDS FOR NATIONAL SECURITY AND OTHER PURPOSES

Sec.

9101. Access to criminal history records for national security and other purposes.

AMENDMENTS

2000—Pub. L. 106-398, §1 [[div. A], title X, §1076(f)(1)(A), (2)(B)], Oct. 30, 2000, 114 Stat. 1654, 1654A-282, substituted “AND OTHER PURPOSES” for “PURPOSES” in chapter heading and “Access to criminal history records for national security and other purposes” for “Criminal history record information for national security purposes” in item 9101.

§ 9101. Access to criminal history records for national security and other purposes

(a) As used in this section:

(1) The term “criminal justice agency” means (A) any Federal, State, or local court, and (B) any Federal, State, or local agency, or any subunit thereof, which performs the administration of criminal justice pursuant to a statute or Executive order, and which allocates a substantial part of its annual budget to the administration of criminal justice.

(2) The term “criminal history record information” means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, sentencing, correction supervision, and release. The term does not include identification information such as fingerprint records to the extent that such information does not indicate involvement of the individual in the criminal justice system. The term does not include those records of a State or locality sealed pursuant to law from access by State and local criminal justice agencies of that State or locality.

(3) The term “classified information” means information or material designated pursuant to the provisions of a statute or Executive order as requiring protection against unauthorized disclosure for reasons of national security.

(4) The term “State” means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.